

EXHIBIT 1

HOUSE BILL No. 4936

September 13, 2011, Introduced by Rep. Lund and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 3101, 3104, 3107, 3113, 3114, 3115, 3135,
3157, 3163, and 3172 (MCL 500.3101, 500.3104, 500.3107, 500.3113,
500.3114, 500.3115, 500.3135, 500.3157, 500.3163, and 500.3172),
section 3101 as amended by 2008 PA 241, section 3104 as amended by
2002 PA 662, section 3107 as amended by 1991 PA 191, section 3113
as amended by 1986 PA 93, section 3114 as amended by 2002 PA 38,
sections 3135 and 3163 as amended by 2002 PA 697, and section 3172
as amended by 1984 PA 426, and by adding sections 1245, 3107c, and
3178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1245. (1) AN INSURANCE PRODUCER AND AN AGENCY AND THEIR
2 AUTHORIZED REPRESENTATIVES AND EMPLOYEES INVOLVED IN THE SALE OR

1 PURCHASE OF PERSONAL PROTECTION INSURANCE BENEFITS UNDER SECTION
2 3107 ARE NOT LIABLE FOR DAMAGES ARISING FROM THE LOSS OR INADEQUACY
3 OF PERSONAL PROTECTION INSURANCE BENEFITS AND DO NOT HAVE ANY OTHER
4 LIABILITY FOR DAMAGES CAUSED BY, ARISING OUT OF, OR RELATED TO ANY
5 ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION CONCERNING THE CHOICE OF
6 PERSONAL PROTECTION INSURANCE BENEFIT AMOUNTS UNDER SECTION 3107.

7 (2) AS USED IN THIS SECTION, "AGENCY" MEANS THAT TERM AS
8 DEFINED IN SECTION 1243.

9 Sec. 3101. (1) The owner or registrant of a motor vehicle
10 required to be registered in this state shall maintain security for
11 payment of benefits under personal protection insurance ~~—IN AN~~
12 AMOUNT NOT LESS THAN THAT REQUIRED UNDER SECTION 3107(1) (A) (i) AND
13 property protection insurance ~~—and~~ residual liability insurance IN
14 AN AMOUNT NOT LESS THAN THAT REQUIRED UNDER SECTION 3009. Security
15 shall only be required to be in effect during the period the motor
16 vehicle is driven or moved upon a highway. Notwithstanding any
17 other provision in this act, an insurer that has issued an
18 automobile insurance policy on a motor vehicle that is not driven
19 or moved upon a highway may allow the insured owner or registrant
20 of the motor vehicle to delete a portion of the coverages under the
21 policy and maintain the comprehensive coverage portion of the
22 policy in effect.

23 (2) As used in this chapter:

24 (a) "Automobile insurance" means that term as defined in
25 section 2102.

26 (b) "Highway" means that term as defined in section 20 of the
27 Michigan vehicle code, 1949 PA 300, MCL 257.20.

1 (c) "Motorcycle" means a vehicle having a saddle or seat for
2 the use of the rider, designed to travel on not more than 3 wheels
3 in contact with the ground, which is equipped with a motor that
4 exceeds 50 cubic centimeters piston displacement. The wheels on any
5 attachment to the vehicle shall not be considered as wheels in
6 contact with the ground. Motorcycle does not include a moped, as
7 defined in section 32b of the Michigan vehicle code, 1949 PA 300,
8 MCL 257.32b. Motorcycle does not include an ORV.

9 (d) "Motorcycle accident" means a loss involving the
10 ownership, operation, maintenance, or use of a motorcycle as a
11 motorcycle, but not involving the ownership, operation,
12 maintenance, or use of a motor vehicle as a motor vehicle.

13 (e) "Motor vehicle" means a vehicle, including a trailer,
14 operated or designed for operation upon a public highway by power
15 other than muscular power ~~which~~ **THAT** has more than 2 wheels. Motor
16 vehicle does not include a motorcycle or a moped, as defined in
17 section 32b of the Michigan vehicle code, 1949 PA 300, MCL 257.32b.
18 Motor vehicle does not include a farm tractor or other implement of
19 husbandry ~~which~~ **THAT** is not subject to the registration
20 requirements of the Michigan vehicle code pursuant to section 216
21 of the Michigan vehicle code, 1949 PA 300, MCL 257.216. Motor
22 vehicle does not include an ORV.

23 (f) "Motor vehicle accident" means a loss involving the
24 ownership, operation, maintenance, or use of a motor vehicle as a
25 motor vehicle regardless of whether the accident also involves the
26 ownership, operation, maintenance, or use of a motorcycle as a
27 motorcycle.

(g) "ORV" means a motor-driven recreation vehicle designed for off-road use and capable of cross-country travel without benefit of road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV includes, but is not limited to, a multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, an ATV as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101, or other means of transportation deriving motive power from a source other than muscle or wind. ORV does not include a vehicle described in this subdivision that is registered for use upon a public highway and has the security described in section 3101 or 3103 in effect.

(h) "Owner" means any of the following:

(i) A person renting a motor vehicle or having the use thereof, **OF A MOTOR VEHICLE**, under a lease or otherwise, for a period that is greater than 30 days.

(ii) A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.

(iii) A person who has the immediate right of possession of a motor vehicle under an installment sale contract.

(i) "Registrant" does not include a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor

1 vehicle by the lessee for a period that is greater than 30 days.

2 (3) Security may be provided under a policy issued by an
3 insurer duly authorized to transact business in this state ~~which~~
4 **THAT** affords insurance for the payment of benefits described in
5 subsection (1). A policy of insurance represented or sold as
6 providing security is considered to provide insurance for the
7 payment of the benefits.

8 (4) Security required by subsection (1) may be provided by any
9 other method approved by the secretary of state as affording
10 security equivalent to that afforded by a policy of insurance, if
11 proof of the security is filed and continuously maintained with the
12 secretary of state throughout the period the motor vehicle is
13 driven or moved upon a highway. The person filing the security has
14 all the obligations and rights of an insurer under this chapter.
15 When the context permits, "insurer" as used in this chapter,
16 includes any person filing the security as provided in this
17 section.

18 Sec. 3104. (1) An unincorporated, nonprofit association to be
19 known as the catastrophic claims association, ~~hereinafter referred~~
20 ~~to as the association,~~ is created. Each insurer engaged in writing
21 insurance coverages that provide the security required by section
22 3101(1) within this state, as a condition of its authority to
23 transact insurance in this state, shall be a member of the
24 association and shall be bound by the plan of operation of the
25 association. Each insurer engaged in writing insurance coverages
26 that provide the security required by section 3103(1) within this
27 state, as a condition of its authority to transact insurance in

1 this state, shall be considered a member of the association, but
2 only for purposes of premiums under subsection (7)(d). Except as
3 expressly provided in this section, the association is not subject
4 to any laws of this state with respect to insurers, but in all
5 other respects the association is subject to the laws of this state
6 to the extent that the association would be if it were an insurer
7 organized and subsisting under chapter 50.

8 (2) ~~The~~ ALL OF THE FOLLOWING APPLY TO THE AMOUNT OF ULTIMATE
9 LOSS SUSTAINED UNDER PERSONAL PROTECTION INSURANCE COVERAGES:

10 (A) FOR LOSS OCCURRENCES ATTRIBUTABLE TO A MOTOR VEHICLE
11 ACCIDENT FOR POLICIES ISSUED OR RENEWED BEFORE JULY 1, 2012, THE
12 association shall provide, PAYABLE FROM THE MCCA ACCOUNT UNDER
13 SUBSECTION (25) (A), and each member shall accept indemnification
14 for 100% of the amount of ultimate loss sustained under personal
15 protection insurance coverages in excess of the following amounts
16 in each loss occurrence:

17 (i) ~~(a)~~ For a motor vehicle accident policy issued or renewed
18 before July 1, 2002, \$250,000.00.

19 (ii) ~~(b)~~ For a motor vehicle accident policy issued or renewed
20 during the period July 1, 2002 to June 30, 2003, \$300,000.00.

21 (iii) ~~(c)~~ For a motor vehicle accident policy issued or renewed
22 during the period July 1, 2003 to June 30, 2004, \$325,000.00.

23 (iv) ~~(d)~~ For a motor vehicle accident policy issued or renewed
24 during the period July 1, 2004 to June 30, 2005, \$350,000.00.

25 (v) ~~(e)~~ For a motor vehicle accident policy issued or renewed
26 during the period July 1, 2005 to June 30, 2006, \$375,000.00.

27 (vi) ~~(f)~~ For a motor vehicle accident policy issued or renewed

1 during the period July 1, 2006 to June 30, 2007, \$400,000.00.

2 (vii) ~~(g)~~ For a motor vehicle accident policy issued or renewed
3 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

4 (viii) ~~(h)~~ For a motor vehicle accident policy issued or renewed
5 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

6 (ix) ~~(i)~~ For a motor vehicle accident policy issued or renewed
7 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

8 (x) ~~(j)~~ For a motor vehicle accident policy issued or renewed
9 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

10 (xi) ~~(k)~~ For a motor vehicle accident policy issued or renewed
11 during the period July 1, 2011 to June 30, ~~2013-2012~~, \$500,000.00.

12 ~~Beginning July 1, 2013, this \$500,000.00 amount shall be increased~~
13 ~~biennially on July 1 of each odd-numbered year, for policies issued~~
14 ~~or renewed before July 1 of the following odd-numbered year, by the~~
15 ~~lesser of 6% or the consumer price index, and rounded to the~~
16 ~~nearest \$5,000.00. This biennial adjustment shall be calculated by~~
17 ~~the association by January 1 of the year of its July 1 effective~~
18 ~~date.~~

19 (B) FOR LOSS OCCURRENCES ATTRIBUTABLE TO A MOTOR VEHICLE
20 ACCIDENT FOR POLICIES ISSUED OR RENEWED ON OR AFTER JULY 1, 2012,
21 EACH MEMBER SHALL RETAIN 100% OF THE AMOUNT OF ULTIMATE LOSS
22 SUSTAINED UNDER PERSONAL PROTECTION INSURANCE COVERAGES UP TO
23 \$500,000.00 IN EACH LOSS OCCURRENCE. FOR AN ULTIMATE LOSS OF
24 \$500,000.00 TO \$1,000,000.00, THE ASSOCIATION SHALL PROVIDE,
25 PAYABLE FROM THE EXCESS PIP ACCOUNT UNDER SUBSECTION (25)(B), AND
26 EACH MEMBER SHALL ACCEPT, INDEMNIFICATION FOR 90% OF THE AMOUNT OF
27 ULTIMATE LOSS SUSTAINED UNDER PERSONAL PROTECTION INSURANCE

1 COVERAGES. FOR AN ULTIMATE LOSS IN EXCESS OF \$1,000,000.00, THE
2 ASSOCIATION SHALL PROVIDE, PAYABLE FROM THE EXCESS PIP ACCOUNT
3 UNDER SUBSECTION (25)(B), AND EACH MEMBER SHALL ACCEPT,
4 INDEMNIFICATION FOR 100% OF THE AMOUNT OF ULTIMATE LOSS SUSTAINED
5 UNDER PERSONAL PROTECTION INSURANCE COVERAGES.

6 (3) An insurer may withdraw from the association only upon
7 ceasing to write insurance that provides the security required by
8 section 3101(1) in this state.

9 (4) An insurer whose membership in the association has been
10 terminated by withdrawal shall continue to be bound by the plan of
11 operation, and upon withdrawal —all unpaid premiums that have been
12 charged to the withdrawing member are payable as of the effective
13 date of the withdrawal.

14 (5) An unsatisfied net liability to the association of an
15 insolvent member shall be assumed by and apportioned among the
16 remaining members of the association as provided in the plan of
17 operation. The association has all rights allowed by law on behalf
18 of the remaining members against the estate or funds of the
19 insolvent member for ~~sums~~ **MONEY** due **TO** the association.

20 (6) If a member has been merged or consolidated into another
21 insurer or another insurer has reinsured a member's entire business
22 that provides the security required by section 3101(1) in this
23 state, the member and successors in interest of the member remain
24 liable for the member's obligations.

25 (7) The association shall do all of the following on behalf of
26 the members of the association:

27 (a) Assume ~~100% of all~~ liability as provided in subsection

1 (2).

2 (b) Establish procedures by which members shall promptly
3 report to the association each claim that, on the basis of the
4 injuries or damages sustained, may reasonably be anticipated to
5 involve the association if the member is ultimately held legally
6 liable for the injuries or damages. Solely for the purpose of
7 reporting claims, the member shall in all instances consider itself
8 legally liable for the injuries or damages. The member shall also
9 advise the association of subsequent developments likely to
10 materially affect the interest of the association in the claim.

11 (c) Maintain relevant loss and expense data relative to all
12 liabilities of the association and require each member to furnish
13 statistics, in connection with liabilities of the association, at
14 the times and in the form and detail as may be required by the plan
15 of operation.

16 (d) In a manner provided for in the plan of operation,
17 calculate and charge to members of the association a ~~total~~ premium
18 **FOR THE MCCA ACCOUNT UNDER SUBSECTION (25) (A) AND A PREMIUM FOR THE**
19 **EXCESS PIP ACCOUNT UNDER SUBSECTION (25) (B). EACH PREMIUM SHALL BE**
20 sufficient to cover the expected losses and expenses of the
21 association that the association will likely incur during the
22 period for which the premium is applicable **FOR EACH ACCOUNT.** The
23 **EACH** premium shall include an amount to cover incurred but not
24 reported losses for the period and may be adjusted for any excess
25 or deficient premiums from previous periods. Excesses or
26 deficiencies from previous periods may be fully adjusted in a
27 single period or may be adjusted over several periods in a manner

provided for in the plan of operation. Each member shall be charged an amount equal to that member's total written car years of insurance providing the security required by section 3101(1) or 3103(1), or both, written in this state during the period to which the premium applies, multiplied by the average premium per car. **THE PREMIUM FOR THE EXCESS PIP ACCOUNT SHALL BE ADJUSTED TO REFLECT THE AMOUNT OF COVERAGE SELECTED BY EACH MEMBER'S INSURED UNDER SECTION 3107.** The average premium per car shall be the total premium calculated divided by the total written car years of insurance providing the security required by section 3101(1) or 3103(1) written in this state of all members during the period to which the premium applies. A member shall be charged a premium for a historic vehicle that is insured with the member of 20% of the premium charged for a car insured with the member. As used in this subdivision:

(i) "Car" includes a motorcycle but does not include a historic vehicle.

(ii) "Historic vehicle" means a vehicle that is a registered historic vehicle under section 803a or 803p of the Michigan vehicle code, 1949 PA 300, MCL 257.803a and 257.803p.

(e) Require and accept the payment of premiums from members of the association as provided for in the plan of operation. The association shall do either of the following:

(i) Require payment of the premium in full within 45 days after the premium charge.

(ii) Require payment of the premiums to be made periodically to cover the actual cash obligations of the association.

1 (f) Receive and distribute all ~~sums~~ **MONEY** required by the
2 operation of the association.

3 (g) Establish procedures for reviewing claims procedures and
4 practices of members of the association. If the claims procedures
5 or practices of a member are considered inadequate to properly
6 service the liabilities of the association, the association may
7 undertake or may contract with another person, including another
8 member, to adjust or assist in the adjustment of claims for the
9 member on claims that create a potential liability to the
10 association and may charge the cost of the adjustment to the
11 member.

12 (8) In addition to other powers granted to it by this section,
13 the association may do all of the following:

14 (a) Sue and be sued in the name of the association. A judgment
15 against the association shall not create any direct liability
16 against the individual members of the association. The association
17 may provide for the indemnification of its members, members of the
18 board of directors of the association, and officers, employees, and
19 other persons lawfully acting on behalf of the association.

20 (b) Reinsure all or any portion of its potential liability
21 with reinsurers licensed to transact insurance in this state or
22 approved by the commissioner.

23 (c) Provide for appropriate housing, equipment, and personnel
24 as may be necessary to assure the efficient operation of the
25 association.

26 (d) Pursuant to the plan of operation, adopt reasonable rules
27 for the administration of the association, enforce those rules, and

1 delegate authority, as the board considers necessary to assure the
2 proper administration and operation of the association consistent
3 with the plan of operation.

4 (e) Contract for goods and services, including independent
5 claims management, actuarial, investment, and legal services, from
6 others within or without this state to assure the efficient
7 operation of the association.

8 (f) Hear and determine complaints of a company or other
9 interested party concerning the operation of the association.

10 (g) Perform other acts not specifically enumerated in this
11 section that are necessary or proper to accomplish the purposes of
12 the association and that are not inconsistent with this section or
13 the plan of operation.

14 (9) A board of directors is created ~~, hereinafter referred to~~
15 ~~as the board, which shall be~~ **THAT IS** responsible for the operation
16 of the association consistent with the plan of operation and this
17 section.

18 (10) The plan of operation shall provide for all of the
19 following:

20 (a) The establishment of necessary facilities.

21 (b) The management and operation of the association.

22 (c) Procedures to be utilized in charging premiums, including
23 adjustments from excess or deficient premiums from prior periods.

24 (d) Procedures governing the actual payment of premiums to the
25 association.

26 (e) Reimbursement of each member of the board by the
27 association for actual and necessary expenses incurred on

1 association business.

2 (f) The investment policy of the association.

3 (g) Any other matters required by or necessary to effectively
4 implement this section.

5 (11) Each board shall include members that would contribute a
6 total of not less than 40% of the total ~~premium~~-PREMIUMS calculated
7 pursuant to subsection (7)(d). Each director ~~shall be~~-IS entitled
8 to 1 vote. The initial term of office of a director ~~shall be~~-IS 2
9 years.

10 (12) As part of the plan of operation, the board shall adopt
11 rules providing for the composition and term of successor boards to
12 the initial board, consistent with the membership composition
13 requirements in subsections (11) and (13). Terms of the directors
14 shall be staggered so that the terms of all the directors do not
15 expire at the same time and so that a director does not serve a
16 term of more than 4 years.

17 (13) The board shall consist of 5 directors, and the
18 commissioner shall be an ex officio member of the board without
19 vote.

20 (14) Each director shall be appointed by the commissioner and
21 shall serve until that member's successor is selected and
22 qualified. The chairperson of the board shall be elected by the
23 board. A vacancy on the board shall be filled by the commissioner
24 consistent with the plan of operation.

25 (15) After the board is appointed, the board shall meet as
26 often as the chairperson, the commissioner, or the plan of
27 operation shall require, or at the request of any 3 members of the

1 board. The chairperson shall retain the right to vote on all
2 issues. Four members of the board constitute a quorum.

3 (16) An annual report of the operations of the association in
4 a form and detail as ~~may be~~ determined by the board shall be
5 furnished to each member.

6 (17) Not more than 60 days after the initial organizational
7 meeting of the board, the board shall submit to the commissioner
8 for approval a proposed plan of operation consistent with the
9 objectives and provisions of this section, which shall provide for
10 the economical, fair, and nondiscriminatory administration of the
11 association and for the prompt and efficient provision of
12 indemnity. If a plan is not submitted within this 60-day period,
13 then the commissioner, after consultation with the board, shall
14 formulate and place into effect a plan consistent with this
15 section.

16 (18) The plan of operation, unless approved sooner in writing,
17 shall be considered to meet the requirements of this section if it
18 is not disapproved by written order of the commissioner within 30
19 days after the date of its submission. Before disapproval of all or
20 any part of the proposed plan of operation, the commissioner shall
21 notify the board in what respect the plan of operation fails to
22 meet the requirements and objectives of this section. If the board
23 fails to submit a revised plan of operation that meets the
24 requirements and objectives of this section within the 30-day
25 period, the commissioner shall enter an order accordingly and shall
26 immediately formulate and place into effect a plan consistent with
27 the requirements and objectives of this section.

1 (19) The proposed plan of operation or amendments to the plan
2 of operation are subject to majority approval by the board,
3 ratified by a majority of the membership having a vote, with voting
4 rights being apportioned according to the premiums charged in
5 subsection (7)(d), and are subject to approval by the commissioner.

6 (20) Upon approval by the commissioner and ratification by the
7 members of the plan submitted, or upon the promulgation of a plan
8 by the commissioner, each insurer authorized to write insurance
9 providing the security required by section 3101(1) in this state,
10 as provided in this section, is bound by and shall formally
11 subscribe to and participate in the plan approved as a condition of
12 maintaining its authority to transact insurance in this state.

13 (21) The association is subject to all the reporting, loss
14 reserve, and investment requirements of the commissioner to the
15 same extent as ~~would~~ IS a member of the association.

16 (22) Premiums charged members by the association shall be
17 recognized in the rate-making procedures for insurance rates in the
18 same manner that expenses and premium taxes are recognized.

19 (23) The commissioner or an authorized representative of the
20 commissioner may visit the association at any time and examine any
21 and all the association's affairs.

22 (24) The association does not have liability for losses
23 occurring before July 1, 1978.

24 (25) THE ASSOCIATION SHALL MAINTAIN THE FOLLOWING 2 SEPARATE
25 ACCOUNTS OUT OF WHICH MEMBERS SHALL BE INDEMNIFIED FOR ULTIMATE
26 LOSS:

27 (A) AN MCCA ACCOUNT TO INDEMNIFY FOR LOSS OCCURRENCES

1 ATTRIBUTABLE TO A MOTOR VEHICLE ACCIDENT THAT OCCURS BEFORE JULY 1,
2 2012.

3 (B) AN EXCESS PIP ACCOUNT TO INDEMNIFY FOR LOSS OCCURRENCES
4 ATTRIBUTABLE TO A MOTOR VEHICLE ACCIDENT THAT OCCURS ON OR AFTER
5 JULY 1, 2012.

6 (26) EACH ACCOUNT UNDER SUBSECTION (25) SHALL BE SELF-
7 SUPPORTING, AND ASSETS OR LIABILITIES SHALL NOT BE TRANSFERRED
8 BETWEEN THE ACCOUNTS.

9 (27) ~~(25)~~ As used in this section:

10 ~~—— (a) "Consumer price index" means the percentage of change in~~
11 ~~the consumer price index for all urban consumers in the United~~
12 ~~States city average for all items for the 24 months prior to~~
13 ~~October 1 of the year prior to the July 1 effective date of the~~
14 ~~biennial adjustment under subsection (2)(k) as reported by the~~
15 ~~United States department of labor, bureau of labor statistics, and~~
16 ~~as certified by the commissioner.~~

17 (A) "ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION
18 CREATED IN SUBSECTION (1).

19 (B) "BOARD" MEANS THE BOARD OF DIRECTORS CREATED IN SUBSECTION
20 (9).

21 (C) ~~(b)~~ "Motor vehicle accident policy" means a policy
22 providing the coverages required under section 3101(1).

23 (D) ~~(e)~~ "Ultimate loss" means the actual loss amounts that a
24 member is obligated to pay and that are paid or payable by the
25 member, and ~~de~~ DOES not include claim expenses. An ultimate loss is
26 incurred by the association on the date that the loss occurs.

27 Sec. 3107. (1) ~~Except as provided in subsection (2), personal~~

1 PERSONAL protection insurance benefits are payable for the
2 following:

3 (a) Allowable expenses ~~consisting of all reasonable charges AS~~
4 PROVIDED IN SUBPARAGRAPH (i), (ii), (iii), OR (iv) incurred for
5 reasonably necessary products, services, and accommodations for an
6 injured person's care, recovery, or rehabilitation. Allowable
7 expenses within personal protection insurance coverage shall not
8 include charges for a hospital room in excess of a reasonable and
9 customary charge for semiprivate accommodations except if the
10 injured person requires special or intensive care, or for funeral
11 and burial expenses in the amount set forth in the policy which
12 shall not be less than \$1,750.00 or more than \$5,000.00. ANY CHANGE
13 IN A LIMIT SELECTED UNDER SUBPARAGRAPH (i), (ii), (iii), OR (iv)
14 APPLIES ONLY TO BENEFITS PAYABLE FOR AN ACCIDENT THAT OCCURS ON OR
15 AFTER THE DATE OF THE CHANGE IN THE LIMIT. AN INSURER SHALL PROVIDE
16 THE FOLLOWING COVERAGES, AND AN INSURED SHALL SELECT 1 OF THE
17 FOLLOWING COVERAGES, WHICH SHALL APPLY TO THE INSURED NAMED IN THE
18 POLICY, THE INSURED'S SPOUSE, AND ANY RELATIVE OF EITHER DOMICILED
19 IN THE SAME HOUSEHOLD:

20 (i) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
21 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$250,000.00 FOR
22 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
23 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

24 (ii) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
25 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$500,000.00 FOR
26 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
27 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

1 (iii) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
2 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$1,000,000.00 FOR
3 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
4 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

5 (iv) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
6 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$5,000,000.00 FOR
7 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
8 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

9 (b) ~~Work~~—EXCEPT AS PROVIDED IN SUBSECTION (2), WORK loss
10 consisting of loss of income from work an injured person would have
11 performed during the first 3 years after the date of the accident
12 if he or she had not been injured. Work loss does not include any
13 loss after the date on which the injured person dies. Because the
14 benefits received from personal protection insurance for loss of
15 income are not taxable income, the benefits payable for such loss
16 of income shall be reduced 15% unless the claimant presents to the
17 insurer in support of his or her claim reasonable proof of a lower
18 value of the income tax advantage in his or her case, in which case
19 the lower value shall apply. Beginning March 30, 1973, the benefits
20 payable for work loss sustained in a single 30-day period and the
21 income earned by an injured person for work during the same period
22 together shall not exceed \$1,000.00, which maximum shall apply pro
23 rata to any lesser period of work loss. Beginning October 1, 1974,
24 the maximum shall be adjusted annually to reflect changes in the
25 cost of living under rules prescribed by the commissioner but any
26 change in the maximum shall apply only to benefits arising out of
27 accidents occurring subsequent to the date of change in the

1 maximum.

2 (c) Expenses not exceeding \$20.00 per day, reasonably incurred
3 in obtaining ordinary and necessary services in lieu of those that,
4 if he or she had not been injured, an injured person would have
5 performed during the first 3 years after the date of the accident,
6 not for income but for the benefit of himself or herself or of his
7 or her dependent.

8 (2) A person who is 60 years of age or older and in the event
9 of an accidental bodily injury would not be eligible to receive
10 work loss benefits under subsection (1)(b) may waive coverage for
11 work loss benefits by signing a waiver on a form provided by the
12 insurer. An insurer shall offer a reduced premium rate to a person
13 who waives coverage under this subsection for work loss benefits.
14 Waiver of coverage for work loss benefits applies only to work loss
15 benefits payable to the person or persons who have signed the
16 waiver form.

17 (3) THE FOLLOWING APPLY TO SUBSECTION (1)(A):

18 (A) IF AN INSURED FAILS TO SELECT 1 OF THE PERSONAL PROTECTION
19 COVERAGE LIMITS, AN INSURER SHALL PROVIDE COVERAGE IN THE AMOUNT
20 SET FORTH IN SUBSECTION (1)(A)(i).

21 (B) THE SAME PERSONAL PROTECTION COVERAGE LIMITS APPLY TO ALL
22 MOTOR VEHICLES INSURED UNDER THE SAME POLICY.

23 (C) COVERAGE LIMITS ARE PROVIDED ON A PER INDIVIDUAL PER LOSS
24 OCCURRENCE BASIS. COVERAGE APPLIES ONLY TO BENEFITS PAYABLE TO THE
25 INSURED NAMED IN THE POLICY, THE INSURED'S SPOUSE, AND ANY RELATIVE
26 OF EITHER DOMICILED IN THE SAME HOUSEHOLD.

27 (D) A PERSON WHO IS NOT AN INSURED NAMED IN A POLICY, NOT THE

1 INSURED'S SPOUSE, AND NOT A RELATIVE OF EITHER DOMICILED IN THE
2 SAME HOUSEHOLD IS ENTITLED ONLY TO COVERAGE IN THE LIMIT SET FORTH
3 IN SUBSECTION (1) (A) (i). PERSONAL PROTECTION INSURANCE BENEFITS
4 PAYABLE UNDER THIS SUBDIVISION ARE NOT PAYABLE TO THE EXTENT THAT
5 THE BENEFITS COVERING THE SAME LOSS ARE AVAILABLE FROM OTHER
6 SOURCES, REGARDLESS OF THE NATURE AND NUMBER OF BENEFIT SOURCES
7 AVAILABLE AND REGARDLESS OF THE NATURE OR FORM OF THE BENEFITS.

8 (E) REGARDLESS OF THE NUMBER OF MOTOR VEHICLES INSURED OR
9 INSURERS PROVIDING SECURITY IN ACCORDANCE WITH THIS CHAPTER, OR THE
10 PROVISIONS OF ANY OTHER LAW PROVIDING FOR DIRECT BENEFITS WITHOUT
11 REGARD TO FAULT FOR MOTOR OR ANY OTHER VEHICLE ACCIDENTS, A PERSON
12 SHALL NOT RECOVER DUPLICATE BENEFITS FOR THE SAME EXPENSES OR
13 LOSSES INCURRED.

14 (F) IF ELIGIBLE UNDER SECTION 3163, PERSONAL PROTECTION
15 INSURANCE BENEFITS ARE LIMITED TO THE LIMIT SET FORTH IN SECTION
16 3163 FOR ACCIDENTS OCCURRING IN THIS STATE IF THE INJURED PERSON IS
17 A NONRESIDENT OF THIS STATE AND THE INJURED PERSON'S BENEFITS ARE
18 PAYABLE UNDER A POLICY DELIVERED OUTSIDE OF THIS STATE.

19 (G) PERSONAL PROTECTION INSURANCE BENEFITS ARE NOT PAYABLE TO
20 A NONRESIDENT INJURED IN AN ACCIDENT OCCURRING OUTSIDE OF THIS
21 STATE TO THE EXTENT THAT BENEFITS COVERING THE SAME LOSS ARE
22 AVAILABLE FROM OTHER SOURCES, REGARDLESS OF THE NATURE AND NUMBER
23 OF BENEFIT SOURCES AVAILABLE AND REGARDLESS OF THE NATURE OR FORM
24 OF THE BENEFITS. IF PERSONAL PROTECTION INSURANCE BENEFITS ARE
25 PAYABLE TO A NONRESIDENT UNDER THIS SUBDIVISION, THE BENEFITS ARE
26 LIMITED TO THE LIMIT SET FORTH IN SUBSECTION (1) (A) (i) PER
27 INDIVIDUAL PER LOSS OCCURRENCE.

1 SEC. 3107C. (1) ALLOWABLE EXPENSES UNDER SECTION 3107(1)(A) DO
2 NOT INCLUDE CHARGES FOR A HOSPITAL ROOM IN EXCESS OF A REASONABLE
3 AND CUSTOMARY CHARGE FOR SEMIPRIVATE ACCOMMODATIONS, UNLESS THE
4 INJURED PERSON REQUIRES SPECIAL OR INTENSIVE CARE, OR CHARGES FOR
5 FUNERAL AND BURIAL EXPENSES IN EXCESS OF THE AMOUNT SET FORTH IN
6 THE POLICY, WHICH SHALL NOT BE LESS THAN \$1,750.00 OR MORE THAN
7 \$5,000.00.

8 (2) ALL OF THE FOLLOWING APPLY TO ALLOWABLE EXPENSES UNDER
9 SECTION 3107(1)(A) FOR ATTENDANT CARE OR NURSING SERVICES PROVIDED
10 IN THE INJURED PERSON'S HOME:

11 (A) PAYMENT IS LIMITED TO A TOTAL OF 56 HOURS PER WEEK FOR
12 SERVICES PERFORMED BY 1 OR MORE INDIVIDUALS WHO ARE NOT CERTIFIED,
13 REGISTERED, OR LICENSED TO RENDER THE ATTENDANT CARE OR NURSING
14 SERVICES UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
15 MCL 333.16101 TO 333.18838.

16 (B) PAYMENT FOR SERVICES PERFORMED BY AN INDIVIDUAL WHO IS NOT
17 CERTIFIED, REGISTERED, OR LICENSED TO RENDER THE ATTENDANT CARE OR
18 NURSING SERVICES UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978
19 PA 368, MCL 333.16101 TO 333.18838, SHALL BE \$11.00 PER HOUR FOR
20 BASIC CARE OR \$17.00 PER HOUR FOR SKILLED CARE. BEGINNING JANUARY
21 1, 2013, THE AMOUNTS IN THIS SUBDIVISION SHALL BE ADJUSTED ANNUALLY
22 TO REFLECT CHANGES IN THE COST OF LIVING UNDER RULES PRESCRIBED BY
23 THE COMMISSIONER IN THE SAME MANNER AS THE MAXIMUM UNDER SECTION
24 3107(1)(B) IS ADJUSTED. ANY CHANGES IN THE AMOUNTS APPLY ONLY TO
25 SERVICES RENDERED AFTER THE EFFECTIVE DATE OF THE CHANGES.

26 (3) AS USED IN THIS SECTION:

27 (A) "BASIC CARE" MEANS ANY OF THE FOLLOWING:

1 (i) PROVIDING PERSONAL CARE SERVICES, INCLUDING, BUT NOT
2 LIMITED TO, BATHING, SHAMPOOING, SKIN CARE, ORAL HYGIENE, SHAVING
3 MALE PATIENTS, CATHETER CARE, AND TOILETING ASSISTANCE, INCLUDING
4 URINAL AND BEDPAN ASSISTANCE.

5 (ii) MEASURING AND DOCUMENTING VITAL SIGNS.

6 (iii) PROVIDING OR ASSISTING WITH EXERCISE, AMBULATION, OR
7 POSITIONING AS DIRECTED BY A NURSE OR THERAPIST, INCLUDING
8 AMBULATION WITH OR WITHOUT ASSISTIVE DEVICES, BASIC RANGE OF MOTION
9 BOTH PASSIVE AND ACTIVE, LIGHT PIVOT TRANSFERS, AND ASSISTING FROM
10 BED, CHAIR, OR COMMUNE.

11 (iv) PROVIDING ENVIRONMENTAL AND HOMEMAKING SERVICES, INCLUDING
12 BED-MAKING WHETHER OCCUPIED OR UNOCCUPIED, LIGHT HOUSEKEEPING TO
13 MAINTAIN A HEALTHY ENVIRONMENT, LAUNDERING OF BEDDING AND CLOTHING,
14 SHOPPING FOR GROCERIES, AND TRANSPORTATION AS NECESSARY.

15 (v) ASSISTING WITH SELF-ADMINISTERED MEDICATIONS.

16 (B) "SKILLED CARE" MEANS PROVIDING BASIC CARE SERVICES AND ANY
17 OF THE FOLLOWING:

18 (i) PERFORMING INTERMITTENT STRAIGHT CATHETERIZATION, CATHETER
19 PERINEAL CARE, AND COLOSTOMY CARE AS DIRECTED.

20 (ii) PERFORMING A BOWEL PROGRAM UNDER THE DIRECTION OF A
21 REGISTERED NURSE.

22 (iii) PERFORMING TUBE FEEDINGS AND SIMPLE WOUND CARE UNDER THE
23 DIRECTION OF A REGISTERED NURSE.

24 (iv) PERFORMING FULL 1-PERSON TRANSFERS AND TRANSFERS USING A
25 PATIENT LIFT OR HOIST.

26 Sec. 3113. A person is not entitled to be paid personal
27 protection insurance benefits for accidental bodily injury if at

1 the time of the accident any of the following circumstances
2 existed:

3 (a) The person was using a motor vehicle or motorcycle ~~which~~
4 **THAT** he or she had taken unlawfully, unless the person reasonably
5 believed that he or she was entitled to take and use the vehicle.

6 (b) The person was the owner or registrant of a motor vehicle
7 or motorcycle involved in the accident with respect to which the
8 security required by section 3101 or 3103 was not in effect.

9 (c) The person was not a resident of this state, was an
10 occupant of a motor vehicle or motorcycle not registered in this
11 state, and was not insured by an insurer ~~which~~ **THAT** has filed a
12 certification in compliance with section 3163.

13 (D) **THE PERSON WAS AN OPERATOR OF OR PASSENGER ON A MOTORCYCLE**
14 **WHO WAS NOT WEARING ON HIS OR HER HEAD A CRASH HELMET THAT CONFORMED**
15 **WITH THE REQUIREMENTS OF SECTION 658(4) OF THE MICHIGAN VEHICLE CODE,**
16 **1949 PA 300, MCL 257.658.**

17 Sec. 3114. (1) Except as provided in subsections (2), (3), and
18 (5), a personal protection insurance policy described in section
19 3101(1) applies to accidental bodily injury to the person named in
20 the policy, the person's spouse, and a relative of either domiciled
21 in the same household, if the injury arises from a motor vehicle
22 accident. A personal injury insurance policy described in section
23 3103(2) applies to accidental bodily injury to the person named in
24 the policy, the person's spouse, and a relative of either domiciled
25 in the same household, if the injury arises from a motorcycle
26 accident. When personal protection insurance benefits **DESCRIBED IN**
27 **SECTION 3107(1)**, or personal injury benefits described in section

1 3103(2), are payable to or for the benefit of an injured person
2 under his or her own policy and would also be payable under the
3 policy of his or her spouse, relative, or relative's spouse, the
4 injured person's insurer shall pay all of the benefits and is not
5 entitled to recoupment from the other insurer. **THE COVERAGE FOR**
6 **ALLOWABLE EXPENSES FOR 2 OR MORE MOTOR VEHICLES UNDER 1 POLICY OR**
7 **FOR 2 OR MORE POLICIES SHALL NOT BE ADDED TOGETHER, COMBINED, OR**
8 **STACKED TO DETERMINE THE LIMIT OF INSURANCE COVERAGE AVAILABLE FOR**
9 **EACH INJURED PERSON COVERED UNDER THE POLICY.**

10 (2) A person suffering accidental bodily injury while an
11 operator or a passenger of a motor vehicle operated in the business
12 of transporting passengers shall receive the personal protection
13 insurance benefits to which the person is entitled from the insurer
14 of the motor vehicle. This subsection does not apply to a passenger
15 in the following, unless that passenger is not entitled to personal
16 protection insurance benefits under any other policy:

17 (a) A school bus, as defined by the department of education,
18 providing transportation not prohibited by law.

19 (b) A bus operated by a common carrier of passengers certified
20 by the department of transportation.

21 (c) A bus operating under a government sponsored
22 transportation program.

23 (d) A bus operated by or providing service to a nonprofit
24 organization.

25 (e) A taxicab insured as prescribed in section 3101 or 3102.

26 (f) A bus operated by a canoe or other watercraft, bicycle, or
27 horse livery used only to transport passengers to or from a

1 destination point.

2 (3) An employee, his or her spouse, or a relative of either
3 domiciled in the same household ~~—~~who suffers accidental bodily
4 injury while an occupant of a motor vehicle owned or registered by
5 the employer ~~—~~shall receive personal protection insurance benefits
6 to which the employee is entitled ~~from~~ **IN THE FOLLOWING ORDER OF**
7 **PRIORITY:**

8 (A) **FROM** the insurer of the furnished vehicle.

9 (B) **FROM HIS OR HER OWN POLICY, FROM HIS OR HER SPOUSE'S**
10 **POLICY, OR FROM THE POLICY OF A RELATIVE OF EITHER THE PERSON OR**
11 **HIS OR HER SPOUSE DOMICILED IN THE SAME HOUSEHOLD.**

12 (4) Except as provided in subsections (1) to (3), a person
13 suffering accidental bodily injury arising from a motor vehicle
14 accident while an occupant of a motor vehicle shall claim personal
15 protection insurance benefits from insurers in the following order
16 of priority:

17 (a) The insurer of the owner or registrant of the vehicle
18 occupied.

19 (b) The insurer of the operator of the vehicle occupied.

20 (5) A person suffering accidental bodily injury arising from a
21 motor vehicle accident which shows evidence of the involvement of a
22 motor vehicle while an operator or passenger of a motorcycle shall
23 claim personal protection insurance benefits from insurers in the
24 following order of priority:

25 (a) The insurer of the owner or registrant of the motor
26 vehicle involved in the accident.

27 (b) The insurer of the operator of the motor vehicle involved

1 in the accident.

2 (c) The motor vehicle insurer of the operator of the
3 motorcycle involved in the accident.

4 (d) The motor vehicle insurer of the owner or registrant of
5 the motorcycle involved in the accident.

6 (6) AN INJURED PERSON CLAIMING PERSONAL PROTECTION INSURANCE
7 BENEFITS UNDER SUBSECTION (5) IS LIMITED TO REASONABLE CHARGES
8 INCURRED UP TO A MAXIMUM OF \$250,000.00 FOR REASONABLE NECESSARY
9 PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR HIS OR HER CARE,
10 RECOVERY, OR REHABILITATION.

11 (7) ~~(6)~~—If 2 or more insurers are in the same order of
12 priority to provide personal protection insurance benefits, ~~under~~
13 ~~subsection (5)~~, an insurer paying benefits due is entitled to
14 partial recoupment from the other insurers in the same order of
15 priority, together with a reasonable amount of partial recoupment
16 of the expense of processing the claim, in order to accomplish
17 equitable distribution of the loss among all of the insurers.

18 Sec. 3115. (1) Except as provided in ~~subsection (1) of section~~
19 ~~3114-3114(1)~~, a person suffering accidental bodily injury while not
20 an occupant of a motor vehicle shall claim personal protection
21 insurance benefits from insurers in the following order of
22 priority:

23 (a) Insurers of owners or registrants of motor vehicles
24 involved in the accident.

25 (b) Insurers of operators of motor vehicles involved in the
26 accident.

27 (2) ~~When~~ **THE FOLLOWING APPLY IF** 2 or more insurers are in the

1 same order of priority to provide personal protection insurance
2 benefits:

3 (A) IF THE COVERAGES FOR ALLOWABLE EXPENSES IN THE POLICIES
4 ARE THE SAME, an insurer paying benefits due is entitled to partial
5 recoupment from the other insurers in the same order of priority,
6 together with a reasonable amount of partial recoupment of the
7 expense of processing the claim, in order to accomplish equitable
8 distribution of the loss among such insurers.

9 (B) IF THE COVERAGES FOR ALLOWABLE EXPENSES IN THE POLICIES
10 ARE NOT THE SAME, EACH INSURER SHALL PAY THE RATIO OF ITS LIMIT OF
11 ALLOWABLE EXPENSE COVERAGE TO THE TOTAL ALLOWABLE EXPENSE COVERAGE
12 AVAILABLE UNDER ALL OF THE POLICIES.

13 (3) A limit upon the amount of personal protection insurance
14 benefits available because of accidental bodily injury to 1 person
15 arising from 1 motor vehicle accident shall be determined without
16 regard to the number of policies applicable to the accident.

17 (4) THE LIMIT OF PERSONAL PROTECTION INSURANCE BENEFITS
18 AVAILABLE FOR 2 OR MORE MOTOR VEHICLES UNDER 1 POLICY OR FOR 2 OR
19 MORE POLICIES SHALL NOT BE ADDED TOGETHER, COMBINED, OR STACKED TO
20 DETERMINE THE LIMIT OF INSURANCE COVERAGE AVAILABLE FOR EACH
21 INJURED PERSON COVERED UNDER THE POLICY.

22 Sec. 3135. (1) A person remains subject to tort liability for
23 noneconomic loss caused by his or her ownership, maintenance, or
24 use of a motor vehicle only if the injured person has suffered
25 death, serious impairment of body function, or permanent serious
26 disfigurement.

27 (2) ~~For~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR a

1 cause of action for damages pursuant to subsection (1) filed on or
2 after July 26, 1996, all of the following apply:

3 (a) The issues of whether an injured person has suffered
4 serious impairment of body function or permanent serious
5 disfigurement are questions of law for the court if the court finds
6 either of the following:

7 (i) There is no factual dispute concerning the nature and
8 extent of the person's injuries.

9 (ii) There is a factual dispute concerning the nature and
10 extent of the person's injuries, but the dispute is not material to
11 the determination as to whether the person has suffered a serious
12 impairment of body function or permanent serious disfigurement.

13 ~~However, for a closed head injury, a question of fact for the jury~~
14 ~~is created if a licensed allopathic or osteopathic physician who~~
15 ~~regularly diagnoses or treats closed head injuries testifies under~~
16 ~~oath that there may be a serious neurological injury.~~

17 (b) Damages shall be assessed on the basis of comparative
18 fault, except that damages shall not be assessed in favor of a
19 party who is more than 50% at fault. **HOWEVER, AN OPERATOR OF OR**
20 **PASSENGER ON A MOTORCYCLE WHO WAS NOT WEARING ON HIS OR HER HEAD A**
21 **CRASH HELMET THAT CONFORMED WITH THE REQUIREMENTS OF SECTION 658(4)**
22 **OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.658, SHALL BE**
23 **CONSIDERED TO BE NOT LESS THAN 35% COMPARATIVELY AT FAULT.**

24 (c) Damages shall not be assessed in favor of a party who was
25 operating his or her own vehicle at the time the injury occurred
26 and did not have in effect for that motor vehicle the security
27 required by section 3101 at the time the injury occurred.

1 (3) Notwithstanding any other provision of law, tort liability
2 arising from the ownership, maintenance, or use within this state
3 of a motor vehicle with respect to which the security required by
4 section 3101 was in effect is abolished except as to:

5 (a) Intentionally caused harm to persons or property. Even
6 though a person knows that harm to persons or property is
7 substantially certain to be caused by his or her act or omission,
8 the person does not cause or suffer that harm intentionally if he
9 or she acts or refrains from acting for the purpose of averting
10 injury to any person, including himself or herself, or for the
11 purpose of averting damage to tangible property.

12 (b) Damages for noneconomic loss as provided and limited in
13 subsections (1), ~~and (2)~~, **AND (7) TO (13)**.

14 (c) Damages for allowable expenses, work loss, and survivor's
15 loss as ~~defined~~ **DESCRIBED** in sections 3107 to 3110 in excess of the
16 ~~daily, monthly, and 3-year~~ limitations contained in those sections.

17 **HOWEVER, A PERSON WHO WAS THE OPERATOR OF OR PASSENGER ON A**
18 **MOTORCYCLE WHO WAS NOT WEARING ON HIS OR HER HEAD A CRASH HELMET**
19 **THAT CONFORMED WITH THE REQUIREMENTS OF SECTION 658(4) OF THE**
20 **MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.658, IS NOT ENTITLED TO**
21 **RECOVER THE DAMAGES DESCRIBED IN THIS SUBDIVISION.** The party liable
22 for damages is entitled to an exemption reducing his or her
23 liability by the amount of taxes that would have been payable on
24 account of income the injured person would have received if he or
25 she had not been injured.

26 (d) Damages for economic loss ~~by~~ **IN EXCESS OF THE PERSONAL**
27 **PROTECTION INSURANCE BENEFITS PROVIDED UNDER SECTION 3107 OR, FOR a**

1 nonresident, in excess of the personal protection insurance
2 benefits provided under section 3163(4). Damages under this
3 subdivision are not recoverable to the extent that benefits
4 covering the same loss are available from other sources, regardless
5 of the nature or number of benefit sources available and regardless
6 of the nature or form of the benefits.

7 (e) Damages up to \$500.00 to motor vehicles, to the extent
8 that the damages are not covered by insurance. An action for
9 damages pursuant to this subdivision shall be conducted in
10 compliance with subsection (4).

11 (4) In an action for damages pursuant to subsection (3)(e):

12 (a) Damages shall be assessed on the basis of comparative
13 fault, except that damages shall not be assessed in favor of a
14 party who is more than 50% at fault.

15 (b) Liability shall not be a component of residual liability,
16 as prescribed in section 3131, for which maintenance of security is
17 required by this act.

18 (5) Actions under subsection (3)(e) shall be commenced,
19 whenever legally possible, in the small claims division of the
20 district court or the municipal court. If the defendant or
21 plaintiff removes the action to a higher court and does not
22 prevail, the judge may assess costs.

23 (6) A decision of a court made pursuant to subsection (3)(e)
24 is not res judicata in any proceeding to determine any other
25 liability arising from the same circumstances as gave rise to the
26 action brought pursuant to subsection (3)(e).

27 (7) As used in this section, "serious impairment of body

function" means an objectively manifested ~~impairment of~~ INJURY THAT IMPAIRS OR IMPAIRED an important body function AND that affects OR AFFECTED the person's general ability to lead his or her normal life. ALL OF THE FOLLOWING APPLY TO SERIOUS IMPAIRMENT OF BODY FUNCTION:

(A) TO ESTABLISH A SERIOUS IMPAIRMENT OF BODY FUNCTION, THE INJURED PERSON MUST SATISFY BOTH OF THE FOLLOWING:

(i) IN ORDER FOR AN INJURY TO BE OBJECTIVELY MANIFESTED, THERE MUST BE, OR MUST HAVE BEEN, A MEDICALLY IDENTIFIABLE INJURY OR CONDITION THAT HAS A PHYSICAL BASIS.

(ii) THE INJURY AND IMPAIRMENT MUST HAVE, OR MUST HAVE HAD, A MEANINGFUL EFFECT ON THE PERSON'S GENERAL ABILITY AND CAPACITY TO LEAD HIS OR HER NORMAL LIFE.

(B) A PERSON ASSERTING THAT HE OR SHE SUFFERED A SERIOUS IMPAIRMENT OF BODY FUNCTION IS NOT REQUIRED TO PROVE THAT THE INJURY AND IMPAIRMENT WERE PERMANENT, WERE EXTENSIVE, LASTED FOR A SIGNIFICANT PERIOD OF TIME, OR ALTERED THE COURSE AND TRAJECTORY OF THE PERSON'S ENTIRE NORMAL LIFE, IF THERE IS PROOF THAT THE INJURY AND IMPAIRMENT OTHERWISE SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

(8) A PERSON HAS SUFFERED A SERIOUS IMPAIRMENT OF BODY FUNCTION AS A MATTER OF LAW IF THERE IS NO MATERIAL FACTUAL DISPUTE THAT THE PERSON SUSTAINED ANY OF THE FOLLOWING INJURIES AS A RESULT OF THE ACCIDENT:

(A) AMPUTATION OF AN ARM, LEG, HAND, FOOT, THUMB, OR INDEX FINGER.

(B) A COMMINUTED, DISLOCATED, OPEN, COMPOUND, NONUNION, OR

1 INTRA-ARTICULAR FRACTURE OF THE PELVIS, FEMUR, TIBIA, OR HUMERUS.

2 (C) LOSS OF A REPRODUCTIVE ORGAN.

3 (D) AN INJURY TO THE SPINAL CORD, A SPINAL DISC, OR A VERTEBRA
4 THAT REQUIRED THE PERSON TO UNDERGO SURGERY ON AN INPATIENT
5 HOSPITALIZATION BASIS.

6 (E) AN INJURY THAT REQUIRED REPLACEMENT OF A JOINT IN A HIP,
7 KNEE, OR SHOULDER.

8 (F) PERMANENT PARALYSIS THAT AFFECTS AN IMPORTANT BODY
9 FUNCTION.

10 (G) LOSS OR REMOVAL OF ALL OR PART OF A VITAL ORGAN, EXCEPT
11 SKIN.

12 (9) EXCEPT IN CASES DESCRIBED IN SUBSECTION (8), THE ISSUE OF
13 WHETHER A PERSON SUFFERED A SERIOUS IMPAIRMENT OF BODY FUNCTION AS
14 A RESULT OF THE ACCIDENT SHALL BE SUBMITTED TO A JURY OR TRIER OF
15 FACT, AS A QUESTION OF FACT, IF THERE IS EVIDENCE THAT THE PERSON
16 SUFFERED ANY OF THE FOLLOWING INJURIES:

17 (A) AN INJURY DESCRIBED IN SUBSECTION (8).

18 (B) A CLOSED-HEAD INJURY IF A LICENSED ALLOPATHIC OR
19 OSTEOPATHIC PHYSICIAN WHO REGULARLY DIAGNOSES OR TREATS CLOSED-HEAD
20 INJURIES TESTIFIES UNDER OATH THAT THERE MAY BE A SERIOUS
21 NEUROLOGICAL INJURY.

22 (C) EXCEPT AS PROVIDED IN SUBSECTION (8)(B), A COMMINUTED,
23 OPEN, DISLOCATED, COMPOUND, NONUNION, OR INTRA-ARTICULAR FRACTURE
24 OF A BONE, EXCEPT A BONE IN THE FINGER OR TOE.

25 (D) LOSS OF AN EYE OR EAR OR PERMANENT LOSS OF VISION OR
26 HEARING IN 1 OR BOTH EYES OR EARS.

27 (E) PERMANENT DAMAGE TO THE CARDIOVASCULAR OR RESPIRATORY

1 SYSTEM THAT IMPAIRS THE FUNCTIONING OF THAT SYSTEM.

2 (F) AN INJURY THAT REQUIRED THE PERSON TO UNDERGO ANY OF THE
3 FOLLOWING:

4 (i) IF THE INJURY WAS A TRAUMATIC INJURY TO ANY PART OF A
5 SHOULDER, SURGERY.

6 (ii) EXCEPT AS PROVIDED IN SUBSECTION (8) (B), OPEN REDUCTION OF
7 A FRACTURE WITH FIXATION. THIS SUBPARAGRAPH DOES NOT APPLY TO A
8 FRACTURE IN A FINGER OR TOE, UNLESS THE FRACTURE IS LOCATED IN THE
9 INDEX FINGER OR THUMB.

10 (iii) IF THE INJURY IS A DISLOCATION INJURY, REDUCTION OR
11 SURGERY TO AN ELBOW, HIP, OR KNEE.

12 (iv) EXCEPT AS PROVIDED IN SUBSECTION (8) (D), IF THE INJURY IS
13 A HERNIATED OR RUPTURED SPINAL DISC, AS DIAGNOSED BY A LICENSED
14 NEUROSURGEON OR ORTHOPEDIC SURGEON, SURGERY ON AN OUTPATIENT BASIS.
15 AS USED IN THIS SUBPARAGRAPH, "SURGERY" DOES NOT INCLUDE
16 INJECTIONS.

17 (10) EXCEPT FOR CAUSES OF ACTION BASED ON AN INJURY ENUMERATED
18 IN SUBSECTION (8), ALL OF THE FOLLOWING FACTORS SHALL BE CONSIDERED
19 BY A COURT UNDER SUBSECTION (2) (A), OR BY A JURY OR TRIER OF FACT
20 IF A MATERIAL FACTUAL DISPUTE EXISTS, IN DETERMINING WHETHER THE
21 INJURED PERSON SUFFERED A SERIOUS IMPAIRMENT OF BODY FUNCTION:

22 (A) THE NATURE AND EXTENT OF THE INJURY AND IMPAIRMENT.

23 (B) THE TYPE AND DURATION OF TREATMENT REQUIRED.

24 (C) THE DURATION OF THE INJURY AND IMPAIRMENT.

25 (D) THE EXTENT OF ANY RESIDUAL INJURY AND IMPAIRMENT.

26 (E) THE PROGNOSIS FOR EVENTUAL RECOVERY.

27 (F) THE DIFFERENCES BETWEEN THE PERSON'S LIFE BEFORE AND AFTER

1 THE ACCIDENT THAT WERE CAUSED BY THE INJURY AND IMPAIRMENT.

2 (G) ANY OTHER RELEVANT FACTORS.

3 (11) THE FACTORS STATED IN SUBSECTION (10) ARE NOT EXCLUSIVE,
4 AND NO INDIVIDUAL FACTOR IS DISPOSITIVE.

5 (12) THE JURY OR TRIER OF FACT SHALL NOT CONSIDER THE
6 INCLUSION OR EXCLUSION OF INJURIES AND TREATMENTS ENUMERATED IN
7 SUBSECTIONS (8) AND (9) IN DETERMINING WHETHER THE INJURED PERSON
8 SUFFERED A SERIOUS IMPAIRMENT OF BODY FUNCTION.

9 (13) IF, UNDER SUBSECTION (2) OR (9), THE JURY OR TRIER OF
10 FACT IS TO RESOLVE THE QUESTION OF WHETHER THE ACCIDENT RESULTED IN
11 A SERIOUS IMPAIRMENT OF BODY FUNCTION, THE JURY OR TRIER OF FACT
12 MUST FIND THAT A SERIOUS IMPAIRMENT OF BODY FUNCTION EXISTS IF THE
13 JURY OR TRIER OF FACT FINDS THAT THE PERSON SUSTAINED ANY OF THE
14 INJURIES DESCRIBED IN SUBSECTION (8).

15 (14) THE CHANGES TO THIS SECTION BY THE AMENDATORY ACT THAT
16 ADDED THIS SUBSECTION APPLY TO ACTIONS FILED ON AND AFTER AND
17 ACTIONS PENDING IN A TRIAL OR APPELLATE COURT ON THE EFFECTIVE DATE
18 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

19 Sec. 3157. (1) A-SUBJECT TO SUBSECTION (2), A physician,
20 hospital, clinic, or other person or institution lawfully rendering
21 treatment to an injured person for an accidental bodily injury
22 covered by personal protection insurance, and a person or
23 institution providing rehabilitative occupational training
24 following the injury, may charge a reasonable amount for the
25 products, services, and accommodations rendered. The charge shall
26 not exceed the amount the person or institution customarily charges
27 for like products, services, and accommodations in cases not

1 involving PERSONAL PROTECTION insurance.

2 (2) A PHYSICIAN, HOSPITAL, CLINIC, OR OTHER PERSON OR
3 INSTITUTION LAWFULLY RENDERING TREATMENT TO AN INJURED PERSON FOR
4 AN ACCIDENTAL BODILY INJURY COVERED BY PERSONAL PROTECTION
5 INSURANCE, OR A PERSON OR INSTITUTION PROVIDING REHABILITATIVE
6 OCCUPATIONAL TRAINING FOLLOWING THE INJURY, IS LIMITED TO, AND
7 SHALL BE PAID BY THE AUTOMOBILE INSURER AT, AN AMOUNT THAT DOES NOT
8 EXCEED THE AMOUNT PAID FOR TREATMENT, SERVICE, ACCOMMODATION, AND
9 MEDICINE UNDER R 418.10101 TO R 418.101503 OF THE MICHIGAN
10 ADMINISTRATIVE CODE OR SCHEDULES OF MAXIMUM FEES FOR WORKER'S
11 COMPENSATION DEVELOPED PURSUANT TO THOSE RULES. THE COMMISSIONER
12 SHALL EXAMINE CHANGES TO R 418.10101 TO R 418.101503 OF THE
13 MICHIGAN ADMINISTRATIVE CODE MADE AFTER THE EFFECTIVE DATE OF THE
14 AMENDATORY ACT THAT ADDED THIS SUBSECTION. IF THE COMMISSIONER
15 FINDS THAT THOSE CHANGES ARE REASONABLE AND APPROPRIATE FOR
16 PURPOSES OF AUTOMOBILE INSURANCE, THOSE CHANGES SHALL APPLY TO THIS
17 SECTION AND THE COMMISSIONER SHALL ISSUE AN ORDER TO THAT EFFECT.

18 Sec. 3163. (1) An insurer authorized to transact automobile
19 liability insurance and personal and property protection insurance
20 in this state shall file and maintain a written certification that
21 any accidental bodily injury or property damage occurring in this
22 state arising from the ownership, operation, maintenance, or use of
23 a motor vehicle as a motor vehicle by an out-of-state resident who
24 is insured under its automobile liability insurance policies, is
25 subject to the personal and property protection insurance system
26 under this act.

27 (2) A nonadmitted insurer may voluntarily file the

1 certification described in subsection (1).

2 (3) Except as otherwise provided in subsection (4), if a
3 certification filed under subsection (1) or (2) applies to
4 accidental bodily injury or property damage, the insurer and its
5 insureds with respect to that injury or damage have the rights and
6 immunities under this act for personal and property protection
7 insureds, and claimants have the rights and benefits of personal
8 and property protection insurance claimants, including the right to
9 receive benefits from the electing insurer as if it were an insurer
10 of personal and property protection insurance applicable to the
11 accidental bodily injury or property damage.

12 (4) If an insurer of an out-of-state resident is required to
13 provide benefits under subsections (1) to (3) to that out-of-state
14 resident for accidental bodily injury for an accident in which the
15 out-of-state resident was not an occupant of a motor vehicle
16 registered in this state, the insurer is only liable for the amount
17 of ultimate loss sustained up to ~~\$500,000.00~~ \$250,000.00. Benefits
18 under this subsection are not recoverable to the extent that
19 benefits covering the same loss are available from other sources,
20 regardless of the nature or number of benefit sources available and
21 regardless of the nature or form of the benefits.

22 Sec. 3172. (1) A person entitled to claim because of
23 accidental bodily injury arising out of the ownership, operation,
24 maintenance, or use of a motor vehicle as a motor vehicle in this
25 state may obtain personal protection insurance benefits through an
26 assigned claims plan ~~if~~ **IN ANY OF THE FOLLOWING SITUATIONS:**

27 (A) **IF** no personal protection insurance is applicable to the

1 injury. 7

2 (B) IF no personal protection insurance applicable to the
3 injury can be identified. 7

4 (C) IF the personal protection insurance applicable to the
5 injury cannot be ascertained because of a dispute between 2 or more
6 automobile insurers concerning their obligation to provide coverage
7 or the equitable distribution of the loss. 7-er

8 (D) IF the only identifiable personal protection insurance
9 applicable to the injury is, because of financial inability of 1 or
10 more insurers to fulfill their obligations, inadequate to provide
11 benefits up to the maximum prescribed. In such case

12 (2) IN ANY OF THE SITUATIONS UNDER SUBSECTION (1), unpaid
13 benefits due or coming due are subject to being collected under the
14 assigned claims plan, and the insurer to which the claim is
15 assigned, or the assigned claims facility if the claim is assigned
16 to it, is entitled to reimbursement from the defaulting insurers to
17 the extent of their financial responsibility.

18 (3) ~~(2)~~ Except as otherwise provided in this subsection,
19 personal protection insurance benefits, including benefits arising
20 from accidents occurring before ~~the effective date of this~~
21 ~~subsection, MARCH 29, 1985,~~ payable through an assigned claims plan
22 shall be reduced to the extent that benefits covering the same loss
23 are available from other sources, regardless of the nature or
24 number of benefit sources available and regardless of the nature or
25 form of the benefits, to a person claiming personal protection
26 insurance benefits through the assigned claims plan. This
27 subsection ~~shall only apply when~~ ONLY APPLIES IF the personal

1 protection insurance benefits are payable through the assigned
2 claims plan because no personal protection insurance is applicable
3 to the injury, no personal protection insurance applicable to the
4 injury can be identified, or the only identifiable personal
5 protection insurance applicable to the injury is, because of
6 financial inability of 1 or more insurers to fulfill their
7 obligations, inadequate to provide benefits up to the maximum
8 prescribed. As used in this subsection "sources" and "benefit
9 sources" do not include the program for medical assistance for the
10 medically indigent under the social welfare act, ~~Act No. 280 of the~~
11 ~~Public Acts of 1939, being sections 400.1 to 400.121 of the~~
12 ~~Michigan Compiled Laws, or insurance under the health insurance for~~
13 ~~the aged act, title XVIII of the social security amendments of 1965~~
14 **1939 PA 280, MCL 400.1 TO 400.119B, OR THE FEDERAL MEDICARE PROGRAM**
15 **ESTABLISHED UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT, 42 USC**
16 **1395 TO 1395KKK-1.**

17 (4) ~~(3)~~ If the obligation to provide personal protection
18 insurance benefits cannot be ascertained because of a dispute
19 between 2 or more automobile insurers concerning their obligation
20 to provide coverage or the equitable distribution of the loss, and
21 if a method of voluntary payment of benefits cannot be agreed upon
22 among or between the disputing insurers, all of the following shall
23 apply:

24 (a) The insurers who are parties to the dispute shall, or the
25 claimant may, immediately notify the assigned claims facility of
26 their inability to determine their statutory obligations.

27 (b) The claim shall be assigned by the assigned claims

1 facility to an insurer ~~which~~ **THAT** shall immediately provide
2 personal protection insurance benefits to the claimant or claimants
3 entitled to benefits **IN THE LOWEST AMOUNT APPLICABLE AMONG THE**
4 **POLICIES IN DISPUTE.**

5 (c) An action shall be immediately commenced on behalf of the
6 assigned claims facility by the insurer to whom the claim is
7 assigned in circuit court for the purpose of declaring the rights
8 and duties of any interested party.

9 (d) The insurer to whom the claim is assigned shall join as
10 parties defendant each insurer disputing either the obligation to
11 provide personal protection insurance benefits or the equitable
12 distribution of the loss among the insurers.

13 (e) The circuit court shall declare the rights and duties of
14 any interested party whether or not other relief is sought or could
15 be granted.

16 (f) After hearing the action, the circuit court shall
17 determine the insurer or insurers, if any, obligated to provide the
18 applicable personal protection insurance benefits and the equitable
19 distribution, if any, among the insurers obligated therefor, and
20 shall order reimbursement to the assigned claims facility from the
21 insurer or insurers to the extent of the responsibility as
22 determined by the court. ~~The reimbursement ordered under this~~
23 ~~subdivision shall include all benefits and costs paid or incurred~~
24 ~~by the assigned claims facility and all benefits and costs paid or~~
25 ~~incurred by insurers determined not to be obligated to provide~~
26 ~~applicable personal protection insurance benefits, including~~
27 ~~reasonable attorney fees and interest at the rate prescribed in~~

~~section 3175 as of December 31 of the year preceding the
determination of the circuit court.~~

(5) IF NO PERSONAL PROTECTION INSURANCE IS APPLICABLE TO THE INJURY OR NO PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY CAN BE IDENTIFIED, PERSONAL PROTECTION INSURANCE BENEFITS SHALL BE PAID ONLY TO THE LIMIT PROVIDED FOR IN SECTION 3107(1)(A)(i). IF THE ONLY IDENTIFIABLE PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY IS, BECAUSE OF FINANCIAL INABILITY OF 1 OR MORE INSURERS TO FULFILL THEIR OBLIGATIONS, INADEQUATE TO PROVIDE BENEFITS UP TO THE MAXIMUM PRESCRIBED, PERSONAL PROTECTION INSURANCE BENEFITS SHALL BE PAID TO THE LIMIT SELECTED BY THE INSURED UNDER SECTION 3107(1)(A) OR AS PROVIDED IN SECTION 3107(3)(A).

(6) ANY REIMBURSEMENT ORDERED UNDER THIS SECTION AND ANY RECOVERY OBTAINED IN CIRCUMSTANCES WHERE PERSONAL PROTECTION INSURANCE BENEFITS HAVE BEEN OR MAY BE PAID THROUGH THE ASSIGNED CLAIMS FACILITY SHALL INCLUDE ALL BENEFITS AND COSTS PAID OR INCURRED BY INSURERS DETERMINED NOT TO BE OBLIGATED TO PROVIDE THE APPLICABLE PERSONAL PROTECTION INSURANCE BENEFITS, INCLUDING REASONABLE ATTORNEY FEES AND INTEREST AT THE RATE PRESCRIBED IN SECTION 3175 AS OF DECEMBER 31 OF THE YEAR PRECEDING THE REIMBURSEMENT ORDER OR RECOVERY DETERMINATION.

SEC. 3178. (1) THE COMMISSIONER SHALL DEVELOP AND MAKE AVAILABLE TO THE PUBLIC 1 OR MORE INFORMATIONAL PAMPHLETS EXPLAINING THE SUBSTANCE OF THE CHANGES TO THIS CHAPTER MADE BY THE AMENDATORY ACT THAT ADDED THIS SECTION. THE PAMPHLET SHALL INCLUDE IN PARTICULAR, BUT NOT BE LIMITED TO, AN EXPLANATION OF THE ADOPTION OF MULTIPLE LIMITS FOR PERSONAL PROTECTION BENEFITS UNDER

1 SECTION 3107(1)(A), THE ABILITY OF AN INSURED TO CHOOSE THE
2 APPLICABLE LIMIT, WHEN THE INSURED WILL HAVE THE OPPORTUNITY TO
3 MAKE THE CHOICE AND WHEN THE CHOICE MADE WILL BE EFFECTIVE, AND THE
4 CONSEQUENCES OF THAT CHOICE.

5 (2) BEFORE JULY 1, 2013, THE COMMISSIONER SHALL REPORT TO THE
6 STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
7 WITH PRIMARY JURISDICTION OVER INSURANCE MATTERS ON THE EFFECT OF
8 THE CHANGES TO THIS CHAPTER MADE BY THE AMENDATORY ACT THAT ADDED
9 THIS SECTION, INCLUDING IN PARTICULAR, BUT NOT LIMITED TO, THE
10 ADOPTION OF MULTIPLE LIMITS FOR PERSONAL PROTECTION BENEFITS UNDER
11 SECTION 3107(1)(A). THE REPORT SHALL CONTAIN ANY RECOMMENDATIONS OF
12 THE COMMISSIONER FOR CHANGES TO THIS CHAPTER.

13 (3) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2012, \$50,000.00
14 IS APPROPRIATED FROM THE GENERAL FUND TO THE DEPARTMENT OF
15 LICENSING AND REGULATORY AFFAIRS TO BE USED BY THE OFFICE OF
16 INSURANCE AND FINANCIAL SERVICES TO IMPLEMENT THIS SECTION.

17 Enacting section 1. (1) Sections 3101, 3104, 3107, 3114, 3115,
18 3163, and 3172 of the insurance code of 1956, 1956 PA 218, MCL
19 500.3101, 500.3104, 500.3107, 500.3114, 500.3115, 500.3163, and
20 500.3172, as amended by this amendatory act, and section 1245 of
21 the insurance code of 1956, 1956 PA 218, as added by this
22 amendatory act, take effect on July 1, 2012.

23 (2) Section 3157 of the insurance code of 1956, 1956 PA 218,
24 MCL 500.3157, as amended by this amendatory act, and section 3107c
25 of the insurance code of 1956, 1956 PA 218, as added by this
26 amendatory act, take effect on the effective date of this
27 amendatory act and apply to products, services, and accommodations

1 that are provided on and after the effective date of this
2 amendatory act irrespective of the date of loss, but do not affect
3 any obligation involving a specific claim under a written agreement
4 or consent judgment entered into before the effective date of this
5 amendatory act.

6 (3) Sections 3113 and 3135 of the insurance code of 1956, 1956
7 PA 218, MCL 500.3113 and 500.3135, as amended by this amendatory
8 act, take effect on the effective date of this amendatory act.